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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

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June 15, 2017

Ms. Molly Cagle, Counsel  
Baker Botts LLP  
98 San Jacinto Blvd., Suite 1500  
Austin, Texas 78701

Re: Corpus Christi Drinking Water Incident of December, 2016  
May 11, 2017 Meeting with EPA and Ergon

Dear Ms. Cagle:

Thank you for meeting with representatives of the Environmental Protection Agency ("EPA") at our office in Dallas, Texas on May 11, 2017. We found the meeting to be very helpful and informative concerning the events that led to the drinking water advisory ban imposed by the City of Corpus Christi, Texas in December of 2016. This letter is intended to memorialize our understanding of your presentation of information on behalf of Ergon Asphalt and Emulsions, Inc. ("Ergon"). Of course, if there is anything in this letter that portrays a misunderstanding of your presentation, please do not hesitate to contact me for correction. At the meeting, you provided certain factual statements which this letter attempts to memorialize in the paragraphs below.

The Ergon facility in Corpus Christi, Texas leases a corner of the property owned by the Valero Marketing & Supply Company ("Valero") (the property leased by Ergon is referred to as the "Leased Property") and has been leasing it from Valero since taking over the facility from the Sem Materials Group, who succeeded Koch as the operating entity on the Leased Property. Ergon's facility produces emulsion products for its customers. Its facility includes four staff, including one facility manager.

Valero receives water from the City of Corpus Christi, Texas (the "City") from a two-inch (2") diameter water line connected to an eight-inch (8") diameter water line (the "Connection"). The eight-inch water line runs parallel to and along Up River Road and eventually dead ends several hundred yards to the southeast of the Valero property. The eight-inch line connects further upstream of the Valero property to one of the City's main 24" diameter water lines, which also

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runs parallel to and along Up River Road. Situated within Valero's property, downgradient of the Connection, is a three-way "chicken foot" — two water pipes branch out to Valero's facility while the third water pipe extends to the Leased Property.

The water meter that the City uses to measure the amount of water used is situated on Valero's property. Valero is the sole customer at the service address 6746 Up River Road. Valero receives a monthly water bill from the City and pays the bill directly to the City.

Pursuant to the lease between Valero and Ergon, Ergon has the right to receive, use and enjoy utility service at the Leased Property, including water, at Ergon's expense. Although the lease is silent about utility payments, since the execution of the lease, Ergon has not received an invoice/bill from the City for its use of water at the Leased Property. Instead, Valero has invoiced Ergon monthly for a portion of the monthly water bill Valero receives from the City; Ergon understands the invoiced amounts to be based in part on the readings taken by Valero at the separate water meter situated on Valero property that measures the amount of water Ergon uses. Ergon pays Valero directly the invoiced amount. At the meeting, Ergon provided to EPA copies of Valero handwritten notes on City bills to Valero showing Ergon's portion of costs towards the water invoice/bill Valero receives from the City.

On or about November 21 or 22, December 1 and December 6, Valero notified Ergon and the City of discoloration and/or soapy water problems with Valero's drinking water. The City never contacted Ergon on those dates. Each time, the City flushed the system and the water cleared up. On December 12, Valero again contacted Ergon about cloudy water coming out of the faucet at the Valero Administration Building. Meanwhile, representatives of the City showed up at the Valero Administration Building, and the City flushed the lines. On or about December 12, Ergon's company staff discovered that there was no backflow preventer on the Connection and none of the lines extending from the chickenfoot on Valero's property had a backflow preventer. Upon further inspection, Ergon made arrangement for installation of a back-flow preventer on Valero's property on the 2" line that extended to the Leased Property. On December 14, 2016, the Texas Commission on Environmental Quality arrived. The installation of backflow preventers was discussed with the City and TCEQ and on that same date, backflow preventers were installed (all by the same plumbing company) on all three pipes branching out of the chickenfoot. Those systems were certified on December 15, 2016.

Late December 14, the City issued a city-wide drinking water advisory ban. The city altered the advisory ban to limit its geographic scope and then lifted the advisory a few days later after it secured sampling results that indicated no detection of a product known as Indulin AA-86. Ergon uses Indulin AA-86 as the surfactant in the soap solution it uses for three of nine (9) products it makes at its facility. Both water and soap solution were run to the mill seals on December 12 during a batch of one of these three products. Ergon believes that on December 12, 2016, the soap solution containing Indulin AA-86 may have gotten into the two-inch water line serving the Leased Property, back to the chickenfoot and traveled up one or both of the other two-inch lines to Valero. Ergon has since completely flanged off the water hose at issue so that it can no longer be used. Ergon also stopped manufacturing products that use Indulin AA-86 at

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this facility. In addition, Ergon contracted with a plumber to install a backflow preventer on the Leased Property. That backflow preventer was certified on February 27, 2017.

Ergon estimates that approximately 1060 gallons of cationic soap solution may have escaped through the water hose connection and into the two-inch line serving the Leased Property. Extrapolating from the ratios of Indulin AA-86 and HCl provided on the batch sheet for December 12, 2016, Ergon estimates that hydrochloric acid made up approximately 3 gallons and Indulin AA-86 approximately 7-8 gallons of the 1060 gallons of soap solution that may have backflowed. The remainder of the solution was water. However, Ergon asserts that it is highly unlikely that the soap solution containing Indulin AA-86 would have left Valero's property because the water pressure from the 8" City water line is generally too great to allow that to happen.

The above illustrates a brief summary of our understanding of the information you shared with us during our May 11, 2017 meeting. We greatly appreciate the time and effort you and your colleagues put forth for the meeting. If you have any questions, or if you find any facts above to be incorrect, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edwin Quinones', written in a cursive style.

Edwin Quinones  
Assistant Regional Counsel